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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,995	09/25/2003	Ming-Tay Hsu	BP3028-S21-P94	1081
7590 Ming-Tay Hsu P O Box 166-13 Taipei, TAIWAN			EXAMINER TON, ANABEL	
			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,995

Applicant(s)

HSU, MING-TAY

Examiner

Anabel M. Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 6,8 are rejected under 35 U.S.C. 102(b) as being anticipated by Geddes et al (6,158,871).
3. Geddes discloses a base having a device groove at an upper end thereof (10,112) and a hollow battery set at an lower end thereof (7); a light emitting body installed on the device groove having a long lead and a short lead (10, 102, 101); a battery set installed in the battery groove;(fig 5) a spring enclosing an periphery of the battery set and a length of the spring being larger than an expandable spring of the battery se (12, fig 4) t; a metal cap in a lower end of the spring and spring with a predetermined distance(112); distanced from the wherein a bottom of the device groove of the base is formed with at least one through hole(94) which is communicated with the battery groove; a wall of the device groove is formed with at least one axial slot(71); a wall of the battery groove is formed with at least one axial recess(72); each slot is communicated with a respect recess; the short lead of the light emitting body passes through the through hole to be in contact with a top electrode of the battery set in the battery groove (101, fig 5); the long lead extends through one slot of the device groove

Art Unit: 2875

and then bends downwards to be in contact with the spring(102, fig 5); further, the wall of the battery groove are formed with two notches; a lower inner wall of the battery groove is formed with a ring(fig 3).

- Wherein there are two through holes at the bottom of the device groove; and there are two slots and two recesses which are arranged at opposite sides of the walls of the device groove and battery groove, respectively the two through holes, two slots, two recesses are at the same diameter line of the bottom of the device groove (fig 3);
- The two through holes are in a radial recesses at the bottom of the device groove; the long lead is embedded in the radial recess (fig 5);
- The light emitting body includes an IC board and an IC, and light emitting elements;
- At least one sound-emitting element is in the device groove (inherently, when the device is activated, though rotational force or compressive force, a sound is made by the device).

Allowable Subject Matter

4. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach the conduction unit as claimed in claim 7 particularly the buckling ring extending with an L-shaped guide sheet.

Response to Arguments

5. Applicant's arguments filed 05/31/05 have been fully considered but they are not persuasive. To begin, applicant asserts that the cited prior art of reference is indeed applicant's own invention since applicant also has an invention titled "illuminating ball point pen (i.e. USP 6,158,871)". This patent is not assigned to applicant nor has been invented by applicant since the patent clearly cites the inventors as being Geddes et al and assigned by Raymond Geddes Company, Inc. Md. If applicant is alleging an interference with this patent, as presently documented, Geddes's publication date is at least one year before applicant's filing date of the instant invention, even one year before the foreign priority date. If applicant is alleging that the instant invention was conceived before the filing date of the Geddes et al patent, October 14, 1998, applicant needs to submit sufficient evidence proving so in an affidavit under 37 CFR 1.132. Finally, because applicant has not presented arguments relating to the instant invention or the rejection made to the claims of the instant invention by the examiner all arguments presented are moot.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 2875

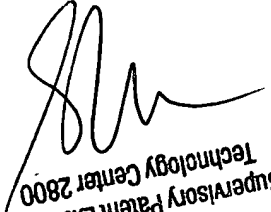
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton
Examiner
Art Unit 2875


Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

AMT

Application/Control Number: 10/672,995
Art Unit: 2875

Page 6